Courts

G. R. S. IX-5]

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GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Memorandum

Part B for November 1857

SUBJECT.

Memorandum on the Administration of Criminal Justice Minute, by Messrs Moncrieff, and Vijayaraghava Naidu

Dissent
Pl/-

W D 1250—GPB—30,000 - 28-1-19

Courts 1-57

Memorandum on the administration of Criminal Justice in Mysore.

The following are the different grades of the Courts of Criminal Justice in Mysore Viz.:-

Ashtagram Division.

- 1 Sur Ameen's Court at Mysore
- 1 Town Moonsiffs Court at Mysore.
- 27 Amildars Courts.
- 1 District Court at Nunjerabad.
- 1 Principal Sudr. Moonsiffs Court at Mysore
- 1 Superintendents Court at Mysore.

Bangalore Division.

- 27 Amildars Courts.
- 1 Town Moonsiffs Court at Bangalore.
- 2 Principal Sudr. Moonsiffs Courts at Bangalore.
- 1 Superintendents Court at Bangalore.

Chittledroog Division.

- 18 Amildars Courts.
- 1 Principal Sudr. Moonsiffs Court at Toomkoor.
- 1 Superintendents Court at Toomkoor

Amildars

15 Amildars Courts

Principal Sudr. Moonsiffs Court } Ingga
at Sheemagah } Divisio

Superintendents Court at Sheemagah.

The Commissioners Court, which is denominated "the Hoozoor Adawlut Court" is Established at Bangalore, the Head Quarters of the Commission, and it consists of three Native Judges.

There are Pundits or Hindoo Law Officers in the Principal Sudr. Moonsiffs Courts, and in the Hoozoor Adawlut Court, where there is a Cauzee or Mahomedan Law Officer likewise.

Every Shaikdar or a Subordinate Revenue Officer in charge of a Hobly or a Sub division of a Talook, has authority to place under restraint for twenty four hours, Persons accused or suspected of heinous Crimes, for

the

the purpose of obtaining such enforma-
tion as is necessary for the Amildar
to bring these persons to trial -

The Shirkdar has no authority
to punish any Offender but refers all
Complaints to the Amildar of the
Talook, who has the general superin-
tendence of the Police -

In the cases in which the
Shirkdar has cognizance, where
longer detention than twenty four
hours is necessary in order to obtain
Evidence he without delay, either
sends the Prisoner together with the
witnesses, and a Statement of the
information he has obtained in the
Case, to the Amildar, or retaining the
Prisoner, sends only the Statement
to the Amildar, with a view to his

Separate

repairing to the spot to make further Enquiry himself. After which, the Shirkdar is guided by the orders he receives from the Amildar.

The Amildar has authority to punish Petty Offences by confinement in the Talook Jail, not in stocks, nor in Irons, for a period not exceeding fourteen days.

The Sur Ameen in the Town of Mysore, has authority to punish all petty Offences committed in the Mysore Town, by confinement in the Division Jail, for a period not exceeding one Month with hard Labor in Irons, without reference to the Superintendt.

The Mysore Town Moonsiff has authority to sentence any Offender to imprisonment in the Jail

for

for a period not exceeding six months without reference to the Superintendent

The District Moonsiff of Nungerabad has the power of sentencing to imprisonment for any term not exceeding one year without reference to the Superintendent.

The Principal Asst. Moonsiff has the power of sentencing to imprisonment, for any term not exceeding two years, without reference to the Superintendent.

The Superintendent has the power of sentencing to imprisonment for any term not exceeding seven years, without reference to the Commissioner.

The Superintendent also hears his decisions both on the Cases referred by the Amildar and those at which either the Sur Ameen, or the

Town

town Moonsiff, or the District Moonsiff, or the Principal Sud: Moonsiff has presided.

When any Crime is reported, the Amildar or the Public Servant nearest the Spot, ascertains immediately, the fact of its commission in the presence of the Principal inhabitants of the Village, and communicates the result to the Superintendent of the Division.

In cases where life is stated to have been taken by violence, the Amildar ascertains the fact by inspecting the dead body in the presence of a Punchayet, and by enquiring into the cause of death, whether natural, suicide or by violence.

In cases of burglary, the Amildar examines the house attacked, ascertains

ascertains the injury done to it, or its inmates. and whether the robbers were seen and pursued by the Village Police and the Inhabitants.

The next step adopted by the Amildar after the fact of the Offence has been ascertained is to discover the Offenders, in pursuit of whom, he is assisted not only by his subordinate Police Officers, but also by the Inhabitants of the Village and the neighbourhood where the Offence was committed

When robbery is committed, the Amildar first obtains information regarding the language spoken by the persons who attacked the Village, their general appearance, whether any strangers had been seen loitering about

about the neighbourhood, a few days previous to the commission of the robbery; if so, who they were and where they belonged to

In the investigation of the above points, some circumstances of a suspicious character elicited during the Enquiry, enable the Amildar to fix his attention on a particular point, which he investigates until some of the stolen articles are traced, or the robbers are discovered.

The Amildar then assembles a Punchayet in open Court, and lays before them, all the information he has gathered about the robbery, and if the Punchayet requires any further particulars, he furnishes them.

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The Prisoners are entitled to challenge upon reasonable grounds, three out of five of the Punchayet

In commencing the Talook Enquiry, a Petition from the Complainant or Prosecutor is usually read and entered on the Proceedings, wherein are also specified, the time and place and other particulars of the robbery-

The material points observed in taking the Evidence, are the following: the Number of the Gang; the extent of violence committed by them; whether they were armed. the amount of property plundered; whether the persons who were robbed actually ever possessed the property stated to have been stolen; the identification of the Prisoners and of the property recovered-

The examination of the Complainant; the defence of the Prisoners and

when the depositions of Witnesses are then taken down in writing, in the presence of the Punchayet, and these statements are attested by two or three respectable witnesses.

The Punchayetdars have an undoubted right to examine the Complainant, the Prisoners, and Witnesses and the Complainant and Prisoners have the same right to cross-examine the Witnesses.

During the progress of the trial, the Amildar ascertains where the Prisoners had resided with their families; and the extent of their property both moveable and immoveable, for the purpose of enabling restitution of the stolen property, in Cases where the Prisoners have denied

denied it, or refused its restoration;
and having obtained sufficient in-
formation in respect to the above two
points and procured Inhabitants or
opinions from the Inhabitants of the
Hobblies to which the Prisoners belong,
respecting their occupations, habits
and general character, records the
same in the Proceedings.

If the Punchayet have
declared the Prisoners to be not
guilty, the Amildar if necessary, immedi-
-ately releases them on bail, making
a report of the same to the Superin-
-tendent, and hands over the Proceed-
-ings to the Punchayet, who record
their opinion on the Proceedings, which
is followed by that of the Amildar.

The

The Proceedings of this preliminary Enquiry are then sent to the Superintendent of the Division by the Amildar, who awaits the orders of that Officer, regarding the disposal of the Prisoners.

The Superintendent or his Assistant, hear these Papers read to him. If the Case be for petty thefts, and the Enquiry made in the Cutcherry, he deems complete and regular, he passes sentence upon the guilty persons, and orders the release of the others.

But if the Case be for Lorch or Gang robbery, or Burglary, or high way robbery, attended with violence, the Superintendent summons

are

an intelligent Punchayet for the regular trial of the Prisoners, at which he either presides himself or desires his Assistant to preside, or refers the Case for the Town Moon-siff, or the District Moonsiff, or the Principal Sudr: Moonsiff, to try and report upon.

In the Moonsiffs Court, dis-tinct charges are prepared according to the total Amount of Evidence, dis-tinguishing some Prisoners, as Prin-cipals, and others, as Accessaries, separate charges being also prepared against the persons who knowingly harboured or received the Stolen property, as well as against those who harboured the Prisoners, or were guilty

guilty Accessaries after the fact.

These charges are read to the Prisoners respectively in the Court; in the presence of an intelligent Punchayet, and they are asked whether they are guilty or not guilty, and their answers are recorded.

Then the Complainant is strictly examined in the presence of the Punchayet, to elicit such particulars from him as may have escaped the observation of the Amildar and the Sadook Punchayet

The Prisoners are allowed their friends or relations to remain with them during the Trial and assist them in their defence. When one Prisoner is under examination

the

the other is kept out of the Court and in the same manner when one Witness is under examination the other is not allowed to be present.

The Statements of the Prisoners given before the Amidan are read over to them, and they are asked to state whether they were freely and voluntarily given by them before the Amidan. In the event of their pleading that they were either intimidated by the Talook authorities, or ill treated or inveigled by promises of Pardon, to assent to the truth of the Statements written down at the Talook Court, the Prisoners are required to support such assertions by Evidence

Whether

Whether the Prisoners called in witnesses or not, to support their pleas, yet the Moonsiff is bound in all such Cases to take the Evidence of the Members of the Punchayet before whom the Prisoners were examined at the Salook Court of the Persons who attested their examinations at that place, and of all such persons as may appear necessary to be examined, for rendering full and ample Justice -

The Witnesses examined in the Salook Court, are further examined by the Moonsiff and the Punchayet, on any points which may not have been fully investigated in the Salook Court, or regarding any doubtful circumstance or ambiguous or prevaricatory

prevaricatory answers found in the Proceedings of the Enquiry held at that place; the Prisoners and Complainant having as before in the Talook, always the right of Cross-examining the Witnesses

Witnesses are confronted when they differ with respect to any important point bearing upon the Case-

Every circumstance, or incident that occurs during the Trial, any remarks or objections made by the Punchayet or the Prisoners or the Complainant, regarding the mode of examination or any other point - are all correctly and minutely noted down in the Proceedings of the Morning Court-

After the Case for the Prosecution and defence is closed, the

whole

whole of the Proceedings of the enquiry held at the Talook Court and the Moonsiffs Court, are read again by the Punchayet and after deliberating upon the case, either in the open Court or in a room close to it, the Punchayet declares its verdict in open Court which is recorded in the Proceedings and the signatures of the Members are obtained to it, and the Punchayet is then dismissed.

The Moonsiff then records his opinion on the Case, either concurring with, or dissenting from the verdict of the Punchayet. In the latter Case, he dilates upon the nature of the evidence adduced, as well as upon the points on which the Witnesses on his Court have varied from their Depositions taken

taken in the Talook Court - If the
Crime proved, differs from that descri
bed in the Charge, he brings it to
notice

The Moonsiff then returns the
Case to the Superintendent, with a
List of the whole of the Papers connec=
ted with it duly numbered and
marked, according to the Established
form - He has the power of liberating
Prisoners upon Bail if necessary,
Reporting the Same to the Superintendent

The Moonsiff having the
power of sentencing any offender
for any term not exceeding two years
with hard labor in Irons
disposes of all such Cases as he receives
from the Superintendent, for his
final disposal - He also tries and

Reports

reports for sentence, such cases deserving more punishment than he can award, as are referred to him by the Superintendent for that purpose.

The Superintendent, after hearing the Proceedings of the Cases returned by the Provoste submits the same to the Commissioner, all Cases of Murder, Gang and Lurch robberies, or other offences of aggravated nature, which involve capital punishment or a term of imprisonment exceeding that allowed to be passed by the Superintendent and which are consequently required to be sent to him for his final decision

Upon the review of the whole of the Proceedings, with the Opinions of the Amildar and the Provoste, as well as the verdicts of the Punchayets assembled

assembled in the Talook Court and the Moonsiffs Court, the Commissioner passes sentence proportioned to the nature of the crime - The sentence is then carried into effect by the Superintendent

The Commissioner has full power to pass sentence of death, transportation beyond seas for life or for a certain period, or imprisonment for life or for a certain period, on any person convicted of heinous crimes deserving that amount of punishment -

In passing sentence upon the Prisoners convicted of robberies, the Moonsiffs, the Superintendent and the Commissioner, adopt in all cases, the principle of awarding enhanced punishments, on the failure of Prisoners

to

to make restitution of stolen property.

No Corporal punishment is inflicted by the sentence of any Court in this Country, but the penalty of fine is substituted for it on the following scale. Amildars are authorized to award fines to the extent of 7 Rupees. The Sur Ameen is authorized to award fines to the extent of 7 Rupees. The Mysore Town Moonsiff is authorized to award fines to the extent of 7 Rupees. The Bangalore Town Moonsiff is authorized to levy fines to the extent of 10 Rupees. The District Moonsiff at Nunjerabad, is authorized to award fines to the extent of 15 Rupees. The Principal Sudr Moonsiff is empowered

to

to levy fines to the extent of 15 Rupees
The Superintendent is authorized
to award fines to the extent of 30
Rupees, and the Hoozoor Adawlut
and the Commissioner, within
any sum at their discretion;
but the fines awarded by the
former are subject to confirmation
by the latter.

The Hurzoor Adawlut Court
or the Commissioners Court, composed
of three Native Judges, tries all such
Criminal Cases as are referred to it
by the Commissioner, with or without
a Punchayet, as the Commissioner
directs, reporting for his confirmation
the result, and stating his opinion
respecting the degree of punishment

the

& the Crime deserves - Upon this, sentence is passed by the Commissioner -

There are besides the above occasionally cases of a peculiar and delicate nature which the Commissioner considers necessary to try in his own presence when a Punchayet is convened and the Trial is held before the Commissioner himself -

I have &c
P. S. Moncrieff
Bangalore Division

Bangalore
15th November
1851

Memorandum on the administration of Criminal Justice in Mysore